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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,696	01/19/2001	Kazuhiro Fujii	SIC -00-004	9689

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DELAND LAW OFFICE  
P.O. BOX 69  
KLAMATH RIVER, CA 96050-0069

EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 02/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/766,696

Applicant(s)

Fujii

Examiner  
Anne Marie Boehler

Art Unit  
3611



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 2, 2002
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above, claim(s) 19-65 and 76 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17, 18, 68, and 70-75 is/are allowed.
- 6) ☒ Claim(s) 1-16, 66, 67, 69, and 77-79 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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1. Claims 19-65 and 76 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8.
2. Claim 78 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if claim 78 is drawn to a nonelected embodiment or if applicant inadvertently claimed the upper surface that extends beyond the first and second brackets, because the elected embodiment does not include that feature.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-16, 66, 67, 69, 77, and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chappell (USPN 4,599,079).

Chappell shows a bracket for mounting a motor controlled derailleur shifter to the chain stay of a bicycle frame. The bracket includes a bracket base 42 having a first bracket support (which connects to the chain stay via the axle and hook 48) and a second bracket support (forward downwardly extending arm which connects to a chain stay at hook 46). Each arm is bent to be laterally offset from the center of the base. Part of the base includes a flange with a

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tubular extension that presents vertical and horizontal surfaces for mounting a part 103 of the control device. The second bracket support includes a mounting opening 100 through which a bolt end 93 extends.

The bracket is generally triangular with an upper surface that is generally straight, but at a small angle to horizontal. However, a mere change of size or shape is not generally a patentable distinction. It would have been an obvious matter of design choice to make the bracket generally rectangular, with a substantially horizontal upper surface, in order to improve the aesthetics of the bracket.

Regarding claim 14, Chappell shows a mounting hole 100 for accepting a bolt which then connects to a nut. It is old and well known and would have been obvious to incorporate a nut into a mounting hole (threading the hole for connection to a bolt), in order to eliminate the need for a separate bolt which can be lost.

5. Claims 17, 18, 68, and 70-75 are allowed.

6. Applicant's arguments with respect to claims 1-16, 66, 67, 69, and 76-79 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Boehler whose telephone number is (703) 308-0422.

*AmBoehl 2/24/03*  
ANNE MARIE BOEHLER  
Primary Examiner

boehler  
February 24, 2003